HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.19619 of 2006

Date : 6-12-2006

Between :

Smt.K.Anuradha w/o.Katari Mohan .. Petitioner

And

Chittoor Municipality,
represented by its Commissioner,
Chittoor, Chittoor District. ..
Respondent

HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.19619 of 2006

ORDER:

The matter is coming up for admission.

The Writ Petition is filed for a writ of mandamus declaring the action on the part of respondents 1 and 2 in issuing the proceedings R.O.C.No.237/06/C3 dated 9-3-2006 and consequential minutes dated 31-7-2006 disqualifying the petitioner's husband for the post of Municipal Councillor for 26th Ward of Chittoor Municipality, Chittoor District amounting to erroneous, arbitrary and contrary to the law and violative of Articles 14 and 21 of the Constitution of India besides being violative of the provisions contemplated under A.P. Municipalities Act and the Rules made thereunder and also violative of the principles of natural justice and consequently to set aside the same and to pass such other suitable orders.

It is stated that in the month of September 2005 Chittoor Municipality conducted elections for Ward Councillors and the petitioner's husband contested from T.D.P. party for 20th Ward. It is also stated that on 28-12-2005 at about 9 p.m. at C.B. Road, Chittoor Town the petitioner's husband was attacked by unknown persons brutally with knives, axes and rods and as a result the husband of the petitioner sustained serious injuries and he

was shifted to Vaidehi Hospital at Bagalore. The I Town Police Station, Chittoor registered the crime as Cr.No.179/2005 for the offence under Section 307 IPC r/w. Section 34 IPC. It is also stated that the petitioner sent letter to the 1st respondent about the incident and also sent telegram on 30-1-2006 bringing to the notice of the 1st respondent that the husband of the petitioner was hospitalized and is unable to attend the meeting. It is also stated that the 1st respondent issued proceedings R.O.C.No.237/06/C3 dated 9-3-2006 and disqualified the petitioner's husband as Ward Councillor under Section 16(K) of the A.P. Municipalities Act on the ground that the husband of the petitioner did not attending the meetings on 31-12-2006, 30-1-2006 and 27-2-2006. It is also stated that the petitioner sent letters by way of registered post and telegrams on 17-1-2006, 30-1-2006, 27-2-2006 and 13-3-2006 intimating that her husband was hospitalized and unable to attend the meetings and his absence is neither willful nor wanton. It is also stated that on 18-3-2006 the husband of the petitioner sent representation and the same was received by the 1st respondent on 28-3-2006 wherein he requested to restore him as the Councillor by bringing it to their notice that his absence is neither willful nor wanton, but due to the circumstances beyond his control. It is also stated that on 12-6-2006 the husband of the petitioner after discharge from the hospital at Bangalore came to Chittoor to

attend the funeral function of one of the relatives and all of a sudden he disappeared thereafter. The petitioner approached the Police Station concerned and lodged a complaint but the police refused to receive the same and did not act on it. Having no other option the petitioner filed W.P.No.13626/2006 for grant of *habeas corpus.* It is also stated that with effect from 31-7-2006 the petitioner's husband was terminated from being the Ward Councillor because of his absence in the meetings. It is also stated that this Court in W.P.No.13626/2006 referred the matter to C.B.C.I.D. for investigation and in the meanwhile respondents 1 and 2 had proposed to notify to conduct election the concerned Ward.

An elaborate counter affidavit is filed explaining several factual details and specific stand is taken in para-16 of the counter affidavit that no action is take till today on the disqualification of the petitioner's husband as the Councillor and the issue is pending with Commissioner and Director of Municipal Administration, A.P., Hyderabad. It is also specifically stated in para-18 of the counter affidavit that there is no proposal to notify or to conduct re-election for 26th Ward as no decision had been taken on the said disqualification.

In the light of the specific stand taken by the 1st respondent in the counter affidavit, this Court is of the considered opinion that the Writ Petition be disposed of directing the concerned competent authority to take

appropriate decision in relation to the several representations in this regard in accordance with law. The stand taken in the counter affidavit referred to supra also is hereby recorded.

With the above directions, the Writ Petition is disposed of. No costs.

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Justice P.S. Narayana

Date : 6-12-2006

AM